

1 SWIFT CREEK MEETING
2 GLEN ECHO COMMUNITY CLUB
3 NOVEMBER 30, 2007
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20 Reported By: Sheralyn R. McCormick
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1 MS. WENONA WILSON: I want to take a minute to
2 review the agenda. The agenda is pretty straightforward,
3 short and simple. We're going to start out the meeting
4 with introductions and those will be somewhat limited.
5 Normally we do take the time to have every person in the
6 room introduce themselves, but when we get a larger group
7 it starts cutting into the time that we want to make sure
8 that is reserved to hear from you. So instead I'm just
9 going to ask the people who are in front representing the
10 agencies to introduce themselves, then I'll also ask if
11 there are other representatives here.

12 After that we'll have some brief opening
13 remarks from the EPA regional administrator, Elin Miller,
14 and then we have an hour to hear from you, to hear
15 questions, comments, feedback that you might have. I have
16 a board up here if there is a follow-up item where someone
17 maybe had asked for a piece of information and you hear
18 the commitment from a representative, then I will record
19 that up here. And again, we also will have the
20 transcripts. The last few minutes of the meeting I'll
21 reserve to make sure that we know and agree on the next
22 steps that we decided upon in the meeting and then we will
23 adjourn at noon. I would like to go ahead and take a
24 minute to do introductions. I'm going to ask if we can
25 just move down this row of representatives in the front

1 and then I'll ask for others in the audience.

2 MR. GARY PALCISKO: I'm Gary Palcisko with the
3 Washington State Department of Health.

4 MS. KAREN LARSON: I'm Karen Larson for the
5 Agency of Toxic Substances and Disease Registry.

6 MS. JULIE WROBLE: Julie Wroble with the EPA
7 in Seattle.

8 MS. LORI COHEN: Good morning. I'm Lori Cohen
9 and I'm with the EPA in Seattle as well.

10 MS. ELIN MILLER: Elin Miller, regional
11 administrator of EPA in Seattle.

12 MR. MIKE MCCORMICK: Mike McCormick, I command
13 the Seattle district for the U.S. Army Corps of Engineers.

14 MS. GINNY DIERICH: I'm Ginny Dierich and I
15 work for the U.S. Army Corps of Engineers in Seattle.

16 MR. JON HUTCHINGS: My name is John Hutchings
17 and I'm the assistant director of Public Works for Whatcom
18 County over the water resource programs and I have with me
19 today Paul Pittman, who many of you know, a geologist, a
20 Public Works geologist who has been working on Swift Creek
21 for quite some time.

22 MR. RICHARD GROUT: I'm Dick Grout and I'm the
23 manager of the Bellingham office of the State Department
24 of Ecology.

25 MS. WENONA WILSON: Okay. Now let me ask,

1 especially for the people in the back, can you hear?
2 Okay. We don't have a microphone here, so I'm going to
3 ask everyone to speak up. I think it might help too if
4 you guys can stand when you speak and if you guys
5 wouldn't mind if you're able to stand also because I
6 just want to make sure everyone can hear one another here.

7 So we've heard from the representatives up
8 here. I'd like to ask in the audience are there any local
9 representatives maybe from the county, any other people
10 here? Would you mind introducing yourself?

11 MR. JOHN WOLPERS: I'm John Wolpers. I'm with
12 the Whatcom County Health Department.

13 MR. DAVE BLAKE: I'm Dave Blake with Northwest
14 Clean Air Agency.

15 MR. MICHAEL PERRY: I'm Michael Perry with the
16 Army Corps of Engineers, Seattle District.

17 MR. JEFF HEGEDUS: Jeff Hegedus with the
18 Whatcom County Health Department.

19 MR. JEFF RODIN: Jeff Rodin, also with EPA and
20 the Emergency Response Program.

21 MS. MONICA TONEL: Monica Tonel, EPA, Seattle.

22 MR. BENJAMIN CLEVELAND: I'm Ben Cleveland
23 with the Washington Department of Natural Resources and
24 I'm the regulatory assistant here in the northwest region.

25 MR. JEFF HAGUE: And I'm Jeff Hague with the

1 Department of Natural Resources. I'm here as a state
2 lands representative.

3 MR. ALLEN SOICHER: I'm Allen Soicher with the
4 Washington State Department of Transportation.

5 MS. SALLY HINTZ: I'm Sally Hintz. I'm the
6 Northwest Washington Director for Senator Maria Cantwell.

7 MR. LUKE LOEFFLER: I'm Luke Loeffler for
8 Congressman Larson's office here in Bellingham.

9 MR. RICHARD KAUFFMAN: Richard Kauffman with
10 the Agency for Toxic Substances and Disease Registry.

11 MS. WENONA WILSON: Any others? Okay. Now,
12 the participation from the property owners and the
13 community, you guys are very important, and I do hope that
14 we get to hear from all of you and you will have a chance
15 to introduce yourself when you get up to speak and then we
16 can get that on the transcription also. Are there any
17 questions on the meeting format or process before we get
18 started with the remarks? Okay. I'm going to go ahead
19 and pass the floor to our regional administrator at the
20 Environmental Protection Agency, Region 10, Elin Miller.

21 MS. ELIN MILLER: Thank you, Wenona. I am
22 Elin Miller, Regional Administrator of EPA Region 10
23 and I just want to say thank you for such a great turnout
24 today, so many of you here today taking time out of your
25 busy schedules. I know for me, I live in downtown Seattle

1 now and I don't make it out to the rural areas much, but
2 my husband and I actually farm in southern Oregon and I
3 make it down there as often as I possibly can and it was
4 nice to drive out here and see part of the country on the
5 way out. My origins and roots have been in agriculture my
6 entire career and I used to serve in the Future Farmers of
7 America and a few other things, so it's always nice to
8 touch base back out to where I come from.

9 I understand that you have a lot of concerns
10 and that was one of the reasons that actually the colonel
11 and I had talked about taking time to specifically come
12 here to be able to hear your concerns directly. I
13 understand that most of you are frustrated and have a lot
14 of questions about what is being done to address the
15 situation. Well, based on the risks evaluated by my
16 staff, I am concerned about the risks to people from
17 asbestos with the dredged material; however, finding
18 solutions that are both protective and allow safe disposal
19 or use of dredged material has been uniquely challenging
20 for all of us. The issues here are complex and
21 multifaceted.

22 EPA alone does not have the authority to solve
23 this problem. As you can see from the number of
24 government representatives here today, and there's quite a
25 few, it will require a collaborative effort to find a

1 safe, economic solution. We've heard your concerns about
2 potential flooding, the stockpile dredge spoils, both the
3 media concerns about windblown dust and long-term disposal
4 of material as well as the type of risks associated with
5 material. EPA has worked hard within our regulatory
6 authority to address some of these immediate concerns.
7 EPA's recent actions to rebuild the eroded creek banks and
8 apply a dust suppressant will help reduce people's
9 exposure to asbestos in the dredge material by flooding
10 and windblown dust.

11 I truly appreciate the cooperation of all
12 property owners in allowing access to EPA to perform the
13 work we've done. I can tell you that EPA pushed its
14 authorities to the limits in order to make these interim
15 actions actually happen. In fact, the Superfund Law
16 prohibits spending on naturally occurring materials unless
17 those materials have been moved or otherwise altered;
18 therefore, EPA sees its most important role as providing
19 technical expertise on the sampling and evaluation of
20 asbestos containing material.

21 While I understand there are no quick
22 solutions, I fully support the continued involvement of
23 EPA staff and management in coming to agreement on
24 long-term solutions and this will not be successful
25 without commitments and collaboration between federal,

1 state and local partners. With that, I really look forward
2 to hearing from all of you. Thank you.

3 MS. WENONA WILSON: Thank you. Okay. So
4 before we move to the next step, one thing I forgot to ask
5 is if there were any representatives from the press here.
6 Could you please identify yourself?

7 MR. CALVIN BRATT: Calvin Bratt from the
8 Lynden Tribune.

9 MS. WENONA WILSON: Which paper?

10 MR. CALVIN BRATT: The Lynden Tribune.

11 MS. WENONA WILSON: Okay. Thank you. Nice to
12 have you here. Okay. So we're going to go ahead and open
13 the floor now to everyone for comments, feedback,
14 questions that you may have. I just ask that we be
15 mindful that there are many people here, so just try and
16 keep your comments concise so that everyone may have a
17 chance to speak. I ask that we all listen very carefully
18 to one another and really focus on the issue and not the
19 individual. So I will go ahead and open the floor. If
20 you could just raise your hand or indicate that you'd like
21 to speak.

22 MR. TOM WESTERGREEN: I'm Tom Westergreen. I
23 work for Great Western Lumber Company and have been
24 involved in this process for a while. I guess one thing
25 I'd like to talk a little bit about is -- and I know I've

1 spent a lot of time talking to Julie, but I still am
2 having trouble understanding from the activity-based
3 sampling that was done and the conclusions that you came up
4 with there is how we got to the point where we are now
5 where we've got a situation where nothing can really be
6 done and I -- so Julie, correct me.

7 I know I've asked you these before and I'm
8 still maybe a little slow on this, but my understanding is
9 the acceptable range of exposure from the risk analysis
10 you did was at 1 to 10,000 to 1 to 1,000,000, but then
11 when you look at what you came up with, one of the
12 scenarios was the dredging and hauling for 25 years and
13 that was one that was higher than that range. And that
14 particular one, that situation you ran somebody eight
15 hours a day for 30 days a year for 25 years, and in the
16 other one that was kind of in a similar situation was the
17 farm soil worker and that would be somebody 12 hours a
18 day, 10 days a year for 30 years.

19 And those numbers were higher than your range,
20 but it seems like those -- I'm not saying unrealistic, but
21 those are really taking an extreme look at it. And again,
22 those are based on not the mean, but one of the maximum
23 values that were obtained out there, and then the other
24 one that ended up outside of the range of reasonable risk
25 was the child play and that was two hours a day for a full

1 year, 350 days a year for 10 years. I mean, that's just
2 not a -- I mean, that doesn't seem realistic to me and
3 that one, like I said, was again was from a maximum value,
4 not a mean value.

5 So it just seems like we're taking -- the
6 information we're basing these decisions on are really
7 from an extreme and I just can't get my head around this,
8 how we can make these decisions that are affecting this
9 community based on -- it seems like kind of iffy
10 numbers, I don't mean to say it that way, but kind of on
11 the extreme of taking the worse case scenario and we're
12 kind of saying all this material is bad because of this
13 worst case scenario. So I guess that's kind of how I'm
14 feeling about this, but I guess my question to EPA is --
15 and we should have asked you this ahead of time. We
16 should have asked you what numbers, if we do this and we
17 get these numbers, would we have been okay? Would this
18 have kind of gone away and we could have done our regular
19 thing? So at what level would you have felt comfortable
20 that we could do some normal activities or controlled uses
21 of material instead of no uses of materials? I guess
22 that's my questions, is where those numbers should have
23 been or would have to be to where we wouldn't be sitting
24 here today.

25 MS. JULIE WROBLE: Okay. If I can respond to

1 a few of your question. I assume you were looking at
2 Table B2 that was --

3 MS. WENONA WILSON: Can you share the name of
4 the document?

5 MS. JULIE WROBLE: It's a pretty large
6 document. It was to Regina Delahunt from Denice Baker and
7 the document is the summary report of EPA activities, the
8 Swift Creek asbestos site. It was released in February of
9 2007 and I think my risk evaluation was an attachment to
10 that report and I believe you were looking at table B2.

11 MR. TOM WESTERGREEN: That's correct.

12 MS. JULIE WROBLE: Okay. B2 has an alternate
13 approach for calculating this that uses a life table
14 approach, so the adult risks are actually lower and the
15 child risks are higher. And I don't want to emphasize
16 that too much, but the numbers that I rely on more and
17 that I think are a little bit stronger, the numbers in
18 Table 4. And there's actually a few additional pathways
19 that end up with higher risks. The walking, again using a
20 maximum, was about 2 times 10 to the -4. There's some
21 slight differences, so I just want to call your attention
22 to that.

23 But I think one of the really important
24 things, the reason we call this a risk evaluation and not
25 a risk assessment like we would do at a big industrial

1 site is that we were focused on the material in the piles
2 initially because those have higher levels of material
3 than what might be more spread out throughout the
4 community, but we use those time weighting factors, what you
5 talked about, the eight hours a day for the dredge hauler,
6 the two hours a day for a child, to look at what
7 percentage of a someone's lifetime might they be exposed
8 to this material.

9 In fact, in this community there's probably
10 other exposures happening to this material that we don't
11 have data for. For example, if there's dust in your home
12 that has asbestos from the piles, that can be another
13 source of exposure. If you're working outside and there's
14 fibers blowing around in the air, that could be another
15 source of exposure. So if we had characterized more of
16 those pathways and looked more completely, I would expect
17 that those numbers would go up.

18 This report, it should be taken for what it
19 is. It was a preliminary look base on source material
20 from the site. It was very focused, but it caused us to
21 be concerned and it causes me to be concerned about
22 unrestricted use of the material throughout the community
23 as has been done in the past. I personally think there
24 could be some options for other uses, but the problem is
25 it raises concerns about handling, exposures to workers,

1 long-term maintenance and other issues that kind of go
2 beyond what my analysis did. I think we could certainly
3 do a more complete analysis of exposures in the community,
4 but that would be more testing in more areas, take more
5 time, and this was enough concern for us to kind of say,
6 okay, I don't think we should continue the practices that
7 have been done previously? Anybody else want to add to
8 that?

9 MS. LORI COHEN: What I was just going to say,
10 because asbestos is a human carcinogen, clearly we are
11 concerned about the presence and protecting human health
12 and any exposure to that carcinogen and I think that, as
13 Julie explained, there's a lot of uncertainty. These
14 aren't absolute numbers. We do have to make assumptions,
15 but based on the assumptions that we made and what we know
16 about the site and the potential exposures to people
17 living in this area, we are concerned about that exposure.

18 MS. WENONA WILSON: And we do have their names
19 and if you guys can remember to say your names even over
20 and over again just so people can remember names. Yes,
21 sir?

22 MS. LORI COHEN: Can I just add to that? The
23 one other thing I did want to say is you are asking for
24 like kind of a bright line as to what's safe or not safe
25 and I don't think we quite addressed that. There really

1 is no bright line. Asbestos is a human carcinogen and
2 there's no amount that's truly safe and so you do have to
3 make these sort of assessments and evaluations to judge
4 what kind of exposures you might be -- what kind of
5 exposures might be there and what the potential increased
6 risk of cancer is to an individual. So I don't think we
7 could ever say there is an absolute bright line of what is
8 safe.

9 MR. TOM WESTERGREEN: You still have to make a
10 decision. You can say that about everything in life, that
11 there's risk in everything you do, and that's what the
12 frustration here is, Lori, is coming up with that level
13 and it seems like even in discussions over a year we still
14 haven't got -- like what Julie was saying, maybe there are
15 some safe things we can do or lower the risk things we can
16 do, but we're not even getting to that point yet and
17 that's very frustrating. With talking with the county, we
18 can't even come up with some low risk examples. I know
19 it's not, "No," but it's just that's what it feels like
20 and it just seems like there has to be some ways we can
21 say if we do this and this and this, the risk is
22 reasonable. And I wish we could just get to that point
23 and start taking about that and it doesn't seem like we're
24 there.

25 MS. WENONA WILSON: Okay. Thank you. Sir?

1 MR. (b) (6) : I'm (b) (6), a property
2 owner on the creek. To help people here, you say it might
3 help them. If you're so concerned about our health, how
4 come all the people that live on the stream haven't been
5 contacted to go to the doctor to see if we have asbestosis
6 or not. You're doing all the things and saying what if
7 and possibilities and all that. People that live in
8 Seattle, there's a statement in the paper that said you're
9 more apt to get sick standing on the corner in Seattle
10 going shopping, whatever, down there breathing gases from
11 the cars. Well, I'm on my property since '72 and dealing
12 with Swift Creek.

13 When I first came here, Army Corps engineers,
14 they were the ones that took care of the creek, they're
15 the ones that straightened the creek out, made it go where
16 it needed to go when we started having problems with the
17 slide. The thing is that if I was a property owner and
18 contaminating the stream, where would I be today? I'd
19 probably be in jail for letting material or anything off
20 of my property run into state water or federal water,
21 federal land. Well, the state, they sit there and let it
22 keep going. They do nothing. I mean, they're the ones
23 that come after me if I pollute a street with cow manure,
24 but they're polluting the stream with asbestos and they're
25 doing nothing about it; they're letting it happen and the

1 EPA is letting it happen. And all the people from the
2 regulatory commission, the state, can do whatever they
3 want to, but a farmer can't go up there and plop cow
4 manure in the stream. See what happens to him.

5 And also, my land is storing hazardous
6 material. I haven't been paid for storing hazardous
7 materials yet at my place. I haven't received a check and
8 neither have any of the other people that live on the
9 stream. And not only is my property being evaluated, but
10 in turn they reassessed my property and doubled it, the
11 assessment on it, and yet I have contaminated land.

12 The other point I would like to make is all
13 the bad publicity this material has gotten, now how are
14 you going to reverse all that? If you guys come up with a
15 proper way of using the material, how are you going to
16 reverse all the bad publicity it's gotten so people will
17 want to use it or take it? I don't know. It's a
18 frustrating deal when you see all the work that people
19 have put into their land to just sit there and let some
20 commission say we can't do nothing with it, we're just
21 going to let it flood your property and take it away.

22 The (b) (6) , they spent years trying to get
23 their land back into production after the slide came down
24 and part of the stream went through their property and
25 overlaid their soil so they couldn't grow anything on it

1 and it's going to happen again because we can't find --
2 all the bureaucrats sit here and there's nobody making a
3 decision of what to do with the material. Concrete
4 Northwest has stated that they'd be interested in
5 material, and they're only two miles down the road, and to
6 put it in their pit and reuse it and screen the rock out
7 for the rock. Well, you guys won't come up with any
8 solution of how do they even move it from there to there.
9 You're all saying what if, what if, what if. Well, we're
10 tired of what ifs. If it had been what if, we'd still be
11 on the east coast waiting for somebody to put a wheel on
12 the wagon to get out west because there would be too many
13 what ifs. I'm glad you guys weren't running the country
14 then, because we wouldn't be here today.

15 MS. WENONA WILSON: I just want to come back
16 to your comments and just make sure did you have -- I
17 heard a couple questions in there. One, how come we're
18 not going to the hospital. Do you want to pursue getting
19 responses for those questions?

20 MR. (b) (6): No. I don't care. I just
21 made a statement. If you were so concerned about our
22 health on the stream as far as having asbestosis, they
23 would have come to us right away and say we want to have
24 you guys checked out. So if it's such a big deal -- and
25 remember, this is not Libby, Montana. This is a what if.

1 They're all possible and all the other names they've
2 terminated them with, but nobody up here can make a
3 decision and I hope there's somebody here today that can
4 make a decision. And if the material was to be used on a
5 highway project, why can't they mix it 50/50 to cut it
6 down as far as the amount of asbestos in one spot or the
7 material that's there? why can't they add regular pit run
8 gravel and lower the rate? But they say oh, no, that
9 won't work.

10 MS. WENONA WILSON: Thank you. I have a
11 comment up here and then we'll go to the back. Sir?

12 MR. (b) (6) : I am (b) (6) and I live
13 right on the corner of (b) (6) and (b) (6) Road.
14 That's where they used my place kind of as a home base for
15 the EPA when they just did their work. I'm a realist and
16 I know we've got numbers, we've got regulations we're
17 going to have to deal with now, and I also realize from
18 where I worked before that when you get statistics like
19 this it's pretty hard to reverse them.

20 My frustration is that I think we should have,
21 whether the state or local government or federal
22 government, I think there needs to be a person appointed
23 that can spearhead this, that can get all these different
24 agencies together to get something done. It's kind of
25 like -- I don't know the analogy, but you've got to have

1 someone in the lead that can get everybody and say, okay,
2 what can you do, what can you do, and they need to have
3 the authority to say, okay, I've got to have this decision
4 by this timeline.

5 Because this is not just a community problem,
6 this is a problem that if that creek fills up, that
7 material's got to go somewhere. So it's going to go in
8 the Sumas River, it's going to fill it up, and then it's
9 going to creep its way into Canada. So that's looking
10 long-term and the solution is long-term, but it's out of
11 the scope of our local government to do it, to come up
12 with the resources. DNR owns lands up there, so the state
13 should be involved in this because it is their land and so
14 we should get more help from the state on solving this
15 problem.

16 And my land, I just got my tax assessment and
17 I called up the tax assessor and I said, you know, it went
18 up like a third. I mean, my land is worthless. I
19 couldn't sell it. Who's going to buy it? Who would buy my
20 place if I wanted to sell it? Nobody in their right mind
21 with this hanging over us. So I asked them, I said, "Did
22 you take that into account," and they said, "Well, 7.2
23 acres. You got discounted 75 percent on the increase."
24 And the other 7.2 acres it was like 12-something percent I
25 got discounted. Well, whoop-de-doo. My taxes are still

1 going up she said between \$200 to \$300. So there's a lot
2 of implications here. My place is turning into wetlands
3 because the creek level is higher than my property now.

4 And so I guess my biggest frustration is that
5 there's nobody spearheading this with clout and that's
6 what we need. And maybe Senator Cantwell and Larson,
7 maybe they can help us get somebody appointed with some
8 clout that can spearhead this problem because it's more
9 than just people sitting in this room that is going to be
10 affected with this. I mean, I don't know if any of you
11 guys have toured the Sumas River and seen the amount of
12 the same material that's in this creek that's built up and
13 deposited on their banks in the high water. In some areas
14 you'll find it four to six inches deep. So I guess that's
15 all I got to say.

16 MS. WENONA WILSON: Thank you.

17 MR. (b) (6) : I'm (b) (6) and I live
18 down on (b) (6) Road. I'm not really directly affected
19 by this, but I have been affected by other water-related
20 flooding and erosion problems in the area. One question
21 I've got, and maybe it was addressed, I got here a little
22 late, this grooming project you just did down here
23 recently. First of all, what was the reason for it, how
24 much did it cost and how long is it good for and how many
25 times are you going to have to do this to do whatever you

1 did to try to mitigate any potential problem that you're
2 trying to take care of with what you're doing?

3 And secondly, being all this is coming off of
4 the DNR property, is there anybody in the EPA here that
5 would be willing to go in on a lawsuit against the DNR
6 with the local property owners here to force the
7 Department of Natural Resources to take problem being that
8 it's coming off of state land and not off of the personal
9 property owners that live around here? Would the EPA be
10 willing to go along in a lawsuit to force something to be
11 done or are you guys just more concerned about telling
12 people that they can't do things because there's a
13 potential risk of some asbestos poisoning at some time in
14 somebody's lifetime any where near or around this problem.

15 MS. WENONA WILSON: Thank you. So there's two
16 questions there. I believe Jeff Rodin will answer the
17 first one about the recent projects that occurred.

18 MR. JEFF RODIN: Correct. I'm Jeff Rodin and
19 I'm with the EPA Emergency Response Program. I was the
20 coordinator for this, as you termed it, grooming project.
21 We came out here on request of the county to help rebuild
22 the berms where they felt they'd been weakened by the
23 water and so we filled in those gaps so hopefully it
24 reduces the threat of flooding or it breaking through the
25 berms and we coordinated those activities with the county

1 and some of their supervision or guidance and the rest of
2 the regrading was also in preparation for applying a dust
3 suppressant to reduce the amount of airborne material.
4 You get high winds here whether it's the winter or summer
5 which does increase the exposure of that. The cost total
6 was probably approaching a quarter million dollars,
7 \$250,000. Those final bills are not in and that included
8 application of the dust suppressant which, if it is not
9 disturbed or covered with fresh material, will last an
10 estimated three to five years.

11 MS. WENONA WILSON: Okay. Let's go with the
12 second -- unless you had a quick follow-up.

13 MR. (b) (6): Yeah, just a quick
14 follow-up. I'm (b) (6), a property owner. You say if
15 it's not disturbed. We have plenty of wildlife running
16 around here, so does that include wildlife too? If
17 wildlife gets up on there, is that disturbed or
18 undisturbed?

19 MR. JEFF RODIN: It's what they call soil
20 tackifier. Think of it as a thin layer of Elmer's Glue
21 that's weather resistant and UV resistant for a number of
22 years. Think of it as common sense. Minimal disturbances
23 by wildlife, the amount of surface area impacted is going
24 to be very minimal versus constant driving over it which
25 would break up the crust over time.

1 MS. WENONA WILSON: One more follow-up.

2 MR. (b) (6): Okay. If you hadn't of
3 put this protectant on there, do you have any count of how
4 much potential asbestos dust would come off that pile if
5 it had been left the way it is?

6 MR. JEFF RODIN: No. The sampling studies
7 that have been done in the past was for characterization
8 and activity-based sampling which started showing the
9 material gets airborne. We have not done residential
10 sampling to see if it was blown off site. So the studies
11 do indicate that once it's disturbed without a protectant
12 on it that you are increasing those amount of levels,
13 including in the wind. We're dealing with a lot of site
14 experience from past sites where we've done similar
15 projects and we're also dealing with concerns that were
16 expressed to us by the residents saying we get high winds
17 here in the wintertime, we have high winds in the
18 summertime, and the stuff is dry and we feel this stuff
19 might be migrating.

20 MS. WENONA WILSON: Let's go onto your second
21 question and then --

22 MS. (b) (6) My name is (b) (6) and
23 we live on the other side of the (b) (6) Road on (b)
24 Road. So how come you didn't do that part of it?

25 MR. JEFF RODIN: The areas expressed to us

1 were a priority by the county that we addressed, as well
2 as by the residents. I know there's some smaller piles on
3 the far side, but we were also under the understanding
4 that they'd been there long enough. They do have minimal
5 vegetation on them.

6 MS. (b) (6) : So they don't have asbestos
7 in them?

8 MR. JEFF RODIN: They have asbestos, but
9 they're a little more stabilized due to the natural
10 vegetation.

11 MS. (b) (6) : But it was just the same.

12 MR. JEFF RODIN: Okay.

13 MS. WENONA WILSON: Thank you. And Jeff will
14 be around after the meeting if anybody wants to talk more
15 in detail about the recent emergency action.

16 UNIDENTIFIED SPEAKER: Time critical removal.

17 MS. WENONA WILSON: Time critical removal.
18 Thank you. Now, you had another question which was, and
19 correct me if I'm wrong --

20 MR. (b) (6) Is the EPA willing to join in
21 with a potential lawsuit against DNR or are they just
22 going to say no, you can't do things with this and we
23 don't want to be involved in the rest of it?

24 MS. WENONA WILSON: So does --

25 MS. ELIN MILLER: I'll take that. And

1 actually, we have a representative from DNR here. And
2 before I like to threaten lawsuits, I like to talk. So, I
3 don't know, I guess a question I have, does DNR own the
4 entire slide and then do you all have any positions yet?
5 Because we need to have more dialogue, if you don't.

6 MR. JEFF MAY: My name is Jeff May. I'm with
7 the state Department of Natural Resources and I am here
8 representing (inaudible) land management on this issue.

9 MS. WENONA WILSON: And if you could speak up
10 just a little. Thank you.

11 MR. JEFF MAY: Okay. One of your questions
12 was how much of the slide do we own, and we haven't done a
13 precise calculation, but just a rough guess is we probably
14 own about 60 percent of the active slide area and our 60
15 percent is the upper part of the slide area. The lower
16 part of the slide area which we do not own which is where
17 material is primarily leaving from is not on state owned
18 land, it's on private property. So that's an answer to
19 one question. Since questions are being kind of pointed
20 towards DNR here, let me just give you just a brief --
21 we've been watching this issue develop and I know it's
22 been taken care of in different ways in the past.

23 Really our understanding of it is that it's a
24 naturally occurring event, it's not something that has
25 been affected by land management activities. In spite of

1 that, we have identified the drainage area that could
2 potentially affect the low portions of the active slide
3 area and that's about a little over 400 acres and we
4 really are not doing active management in that area. And
5 the intent of that is to not do anything that would
6 adversely affect the slide. That's what we're trying to
7 do as an affected landowner.

8 so we feel like we're taking a responsible
9 approach to a naturally occurring event. There is, to my
10 knowledge, nothing that really can be done to prevent the
11 naturally occurring event from continuing, but what we can
12 do as a responsible landowner is not exacerbate the
13 problem and that's what we have been doing for decades.

14 MS. WENONA WILSON: Okay. We had a hand up
15 here.

16 MS. (b) (6): I'm wondering about
17 the property owners below, the private property owners.
18 And I should know this because I drive there periodically,
19 but is something more going on below? Are they following
20 the same approach not to exacerbate the situation, the
21 private property owners? And who are they, of record?

22 MR. JEFF MAY: I can't state who are the
23 private property owners, but I think there are
24 representatives in the room that can.

25 MS. WENONA WILSON: Okay. I'll just take a

1 moment. Are there any private property owners that would
2 like to address that question? Okay.

3 MR. (b) (6): I'd like to address the DNR.
4 How come you're allowing more logging in the next drainage
5 over?

6 MS. WENONA WILSON: And again, if you could
7 stand.

8 MR. (b) (6): I'm sorry. I just asked a
9 question of the DNR. You say you're not actually logging
10 or doing logging of the land on the site itself as far as
11 the slide, but the next drainage over you are continuing
12 logging and building and they are building more roads for
13 logging on that area that affects Gold Creek, which Gold
14 Creek affects not the slide itself, but it affects the
15 amount of material being carried downstream by Swift Creek
16 because Gold Creek flows into Swift Creek. So if you're
17 trying to say that you are not -- you're managing your
18 property or the DNR land properly, but yet you're
19 continuing logging operations the next drainage over.

20 MR. BEN CLEVELAND: My name is Ben Cleveland
21 and I'm also with the Department of Natural Resources.
22 The department has two houses: We've got the state land
23 side which Jeff May represents and I am on the regulatory
24 side. We process the permits that deal with the fire
25 program and so forth and one of our jobs is to process the

1 permits on state and private land and when there is no
2 prohibition on logging in the state of Washington, any
3 parcel or ground any place, there are rules on how you can
4 harvest and manage your land. So if a private land owner
5 up there elects to harvest the ground, we evaluate it,
6 we've got a process, we classify the application according
7 to risk to the resources and so forth, and all those aps
8 up there get those type of review, technical review. And
9 that's why we're here. We're concerned that if someone
10 does harvest in those basins, that they do it properly and
11 we evaluate the risk downstream and that's what was going
12 on with all of those aps. All that has been harvested up
13 there has had geotech reviews and so forth and gives us
14 our best shot at what we can evaluate.

15 But to say they just absolutely can't harvest,
16 we don't do that unless we've got some real good, sound
17 background. And if you notice, they're not harvesting
18 every piece of ground up there. There's pieces that are
19 excluded and those are the highly unstable or highly risky
20 areas and we try and identify them and allow landowners to
21 harvest on those areas appropriately.

22 MS. WENONA WILSON: Thank you. Are there
23 other comments or questions?

24 MR. (b) (6): I still haven't got an answer
25 from the EPA about their position in joining in on some

1 kind of litigation.

2 MS. LORI COHEN: (b) , I can answer that and
3 elaborate on the response. Again, this is naturally
4 occurring and stuff and the EPA -- I am not an attorney,
5 so we can ask the attorneys this question, but I do not
6 think we would have the legal ability to sue somebody for
7 a naturally occurring kind of situation like this. So I
8 don't think that that would be something that EPA would be
9 looking at.

10 MR. (b) (6) : So your regulatory process is
11 just designed to say we can't do this or we can't do that,
12 we don't want you to do this, but we're going to go ahead
13 and let this natural occurring thing cause problems to the
14 local property owners without any recourse from the
15 property owner?

16 MS. LORI COHEN: Well, we didn't come into
17 this as sort of a regulatory agency. We were asked by the
18 county and ATSDR and the state health department to assist
19 in a risk evaluation of the stockpiled material and
20 whether or not it had asbestos and what the levels of
21 asbestos were in that material and what kind of potential
22 health risks might be associate with it and that's how we
23 came to this process. We didn't come in as a regulator
24 trying to make anybody do anything, we were just trying to
25 provide the technical assistance to figure out, again, was

1 asbestos there and at what levels and was it a health
2 concern and that's what we have been trying to do, is just
3 supplying that information to better inform everyone about
4 the risks here and work with everyone on trying to figure
5 out what kind of solution there might be to this
6 particular health problem.

7 So we didn't come at it with sort of a
8 regulatory approach of trying to make anyone do anything
9 here. We really came from more of I guess scientific
10 point of view of trying to figure out is there a problem
11 here and is there a potential human health risk. I think
12 we have identified that there is a potential human health
13 risk here and that's what our purpose was and what we've
14 been trying to do.

15 MS. WENONA WILSON: Thank you.

16 MR. (b) (6): I have a question for the
17 lady up there. You say you're not a regulatory, but you
18 sure put the kibosh to any material being moved. If
19 you're not a regulatory, you put the stop to everything.
20 So I can't see how you can go around and say you've not a
21 regulatory commission or regulating something when you are
22 because you're regulated what I can do on my land and what
23 I can do with the material on my land, so actually you are
24 regulating. And the potential health risk, here we go
25 again. You guys are saying "potential" and I have not

1 seen any -- like I said before, you haven't dragged me to
2 the hospital, to the doctor, to see if I'm potentially
3 asbestos, a hazard walking around. So I don't understand
4 this "potential," "potential," "what if," "what if."

5 There's nothing going on except you people sit
6 up there and draw wages and not really doing anything for
7 us as property owners clear to Canada. I just haven't
8 come off of that. Every piece of drainage area is backed
9 up because of this slide. People can't farm their land.

10 (b) (6), his whole land is flooded with water because
11 of the Swift Creek building up from Sumas. I mean, when
12 it goes, one guy's land down there at the last high water
13 had about a foot of muck in it and nobody -- the EPA
14 hasn't gone down that way. Why haven't you gone down that
15 way and sampled the soils down there? I'd like to know
16 that, why you haven't done it. The only people you've
17 picked on is right here because the county says it's the
18 only place to pick on. How come you guys aren't venturing
19 out and sampling other pieces down land? I'd like an
20 answer to that today, please.

21 MS. WENONA WILSON: Okay. Does anyone want to
22 take that question about expanding the sample area?

23 MS. LORI COHEN: Well, we have thought about
24 that. We have not made a decision --

25 MR. (b) (6): That's not an answer. You've

1 thought about it? You ain't done shit.

2 UNIDENTIFIED SPEAKER: I'm tired of you.

3 (Whereupon, multiple conversations were held.)

4 MS. WENONA WILSON: We're doing really well
5 here together. I know these are hot issues. Be careful
6 not to interrupt each other. We will get through this and
7 we'll have a good meeting, so let's keep on doing well.

8 MS. LORI COHEN: I will try to answer your
9 question. We have, like I said, thought about sampling
10 that area. I think part of it is interest of the
11 community in us doing additional work here. Obviously
12 it's caused a lot of concern from people of the data that
13 we already have. We want to know from the county and from
14 the state, from all the other players, is that something
15 folks are interested in us moving forward with. And we
16 have talked with the other agencies about going forward
17 and doing additional sampling. It is costly. It is
18 something that we don't want to enter into unless we
19 really understand that people are interested in seeing
20 that data and that we will be able to use that data for
21 future decisions on this issue.

22 So it's not something we have said we're not
23 going to do, it's just part of our process. We don't have
24 a huge amount of money to go forward and do that kind of
25 sampling so we're trying to figure out if that's really a

1 need and if that's something that we should move forward
2 with. And we would like input from others on that issue
3 if there is interest in doing that kind of work and I
4 speak not only from myself but I think the other federal
5 and state agencies that are here on that particular issue.

6 MS. WENONA WILSON: Okay. So we have three
7 people lined up to speak. We're going up here and then
8 we're going all the way back and then we're cutting to the
9 middle.

10 MR. (b) (6): There's somebody here from
11 the Department of Transportation, isn't there?

12 MR. ALLEN SOICHER: That's correct.

13 MR. (b) (6): My question, what's the
14 Department of Transportation's stand on -- in the past it
15 has been used, like on the Nugents Corner, and so where's
16 your stand right now? What has to be done for you guys to
17 be able to use it for like an underlayment, if you know?

18 MR. ALLEN SOICHER: I know preliminarily we've
19 been asked by the county to look at the potential for
20 using this material and identified so far that the costs
21 and risks make it prohibitive for DOT to consider using it
22 knowing what we know now with the new information about
23 the potential risks.

24 MR. (b) (6): That kind of answered it.

25 MS. WENONA WILSON: Is there a follow-up

1 question?

2 MR. (b) (6) : what would have to be
3 changed or done in order for you to be able to use it? I
4 guess that's my second question.

5 MR. ALLEN SOICHER: And I'm not going to have
6 a good answer to that question.

7 MR. (b) (6) : Okay.

8 MS. WENONA WILSON: Going to the back now.

9 MR. (b) (6) : You know, this is
10 probably the fourth or fifth time we have come together as
11 a group and personally I'm getting a little frustrated and
12 tired with these meetings because the same questions come
13 up at the same meetings, the same frustrations are
14 expressed at every one of these meetings. As property
15 owners, there have been two or three solutions floated to
16 the various agencies which have all been pretty much
17 thrown out. But what have the agencies, what solutions --
18 have any solutions come from the agencies about what to
19 do? Because all this stuff about how bad it is or
20 whatever keeps coming up.

21 I'm here for a solution. I'm not here to find
22 out how bad this stuff is or how good this stuff is or
23 what we can or can't do with this. I want a solution
24 instead of all these things. It's redundant to bring them
25 up again, but we can't get one agency here to come up with

1 a solution. Nobody has.

2 MR. (b) (6) : Amen.

3 MR. (b) (6) : Because who
4 ultimately -- what agency has the final say? Is it EPA
5 that stops all the other agencies from doing anything?
6 That's a question.

7 MS. WENONA WILSON: Okay. So let's take that
8 question on what agency has the final say and if there are
9 other questions within your statement let me know, but
10 let's start with that one.

11 MR. MIKE MCCORMICK: I'll take that. The
12 answer really is touching on what Mike has said earlier,
13 who has the authority, and where we are right now is a
14 seam between authorities. And that's not an answer you
15 want to hear, but to the extent that I understand it, it's
16 probably the reality. So really at the end of the day
17 this is going to require some sort -- involving the
18 federal government, EPA is trying to deal with this issue
19 on the fringes to the extent that their authorities, their
20 existing authorities allow, just like the Corps has done in
21 the past or is able to operate on its existing
22 authorities. We can do what we're authorized to do by
23 congress. It's a set of law, the whole constitution and
24 that. You all vote and that's really how it's
25 accomplished.

1 Right now it is this seem that's not -- these
2 authorities are not able right now to address the problem.
3 I have authority to do the ecosystem restoration. Is this
4 an ecosystem restoration project? Don't know. One of the
5 requirements of course is that I have a local sponsor in
6 addition to having a federal. I'm the federal sponsor,
7 but I need to have a local sponsor whether that's the
8 state, DNR, or whether that's a local agency, the county.
9 It requires that. If there is -- that's an authority. I
10 don't know if this qualifies for ecosystem restoration,
11 but even if it did I'd still need a local sponsor.

12 As I kind of walked down the issues here, it
13 seems to me that there's a source up on the hill. There's
14 the deposition of sediment, where it's spread to. We have
15 a stockpile of dredge material and also we have material
16 taken off site. So there's four kind of big issues
17 associated with this and I'm sure there are many others,
18 but those are four at least that I can come up with and
19 they impact people's land values, certainly the public
20 health issue as well.

21 I don't think that there's one agency that's
22 going to be able to address all four of those, but I'm
23 committed at least to working with the members,
24 representatives and the congressional delegation to see if
25 there's something that we can do in conjunction with the

1 EPA to try to address that seam. Is there something
2 that's going to be handled, an issue resolved tomorrow, a
3 comprehensive solution, I don't think so, because there's
4 no authority to allow that.

5 I'm being painfully frank with you, sir, but
6 I'm committed to working with the congressional delegation
7 to try to develop maybe an authority to do it, to look at
8 it, to study it and actually come up with a solution. And
9 it's problematic because it's naturally occurring. If it
10 was not naturally occurring, the EPA would have a lot more
11 leverage on the source of the problem.

12 MR. (b) (6): Can I just respond?

13 MR. MIKE MCCORMICK: I've talked to the
14 members of my staff, I've talked to the EPA, and this is
15 one of the rare places in the United States that, yeah,
16 there's asbestos occurring, naturally occurring in very
17 many places around the country. But this is one of the
18 very few places where water is impacting with the
19 naturally occurring asbestos and then transporting it to
20 various places. This is one of the rare places and
21 because it's so rare there is no authority right now to be
22 able to adequately deal with it.

23 MS. WENONA WILSON: So, sir, we have an add on
24 from Sally from Senator Cantwell's office and then we'll
25 go back to you.

1 MS. SALLY HINTZ: The colonel and I were
2 talking about this beforehand. I'm with Senator
3 Cantwell's office. We've been working with Congressman
4 Larson's office and Senator Murray's office. We're
5 extremely frustrated, too. We hope to be able to get the
6 authority for the Corps to support the EPA in a solution,
7 but we look to them and to the county and to the state as
8 the experts to tell us what we need to set out there. I'm
9 a poli sci major. I've been in banking for 25 years. I
10 don't have the answers to this kind of stuff. What I can
11 do is try and help to find the money and the
12 authorization.

13 We're here because we're trying to find the
14 answers because we're hoping to hear some answers here and
15 to support them and to find out from you if there's
16 anything we can do in the interim. I don't have any
17 answers, but if we can get the start -- and back me up on
18 this, Luke, or jump in. If we can get a starting point
19 where, okay, this is the direction we need to head, this
20 is the direction for a study for a first step on the
21 action, whatever, that we can get from the Corps and EPA
22 and the state and county agencies, then we can take the
23 ball and we can run with it. But I don't know where we
24 start on this one and that's why I'm here today trying to
25 get the same answers you're trying to get.

1 And I know that's not an answer you want to
2 hear either, but we want to be able to help on this and
3 we're looking for direction as well as far as what is the
4 first step that we can take as far as the federal side of
5 things. I wish I was in a position to tell people you do
6 what I tell you to do, but we're not.

7 MS. WENONA WILSON: Okay. We're going several
8 places now. We need to finish in the back and we have a
9 gentleman who has been waiting in the middle and then
10 we're going to the back again and then we're going over
11 here.

12 MR. (b) (6) : And I appreciate your
13 comments, but we've been here before. We've been here.
14 we were here. This past summer we were here and we've
15 been at all these other meetings. Who is going to do
16 what, when?

17 MR. (b) (6) : We need a zipper.

18 MR. (b) (6) : That was a question that
19 was posed at the last meeting and we've got all these
20 agencies here and nobody knows what they're going to do,
21 when, and here we are again rehashing this whole thing all
22 over again. I'm fed up with it. I want a solution.
23 Somebody has to spearhead this thing and get the ball
24 rolling on this thing.

25 MR. (b) (6) : Start zipping that zipper.

1 MR. (b) (6) : Answer this for me.
2 what's worrisome about if this product leaves Swift Creek?

3 MS. WENONA WILSON: So I'm going to take that
4 question --

5 MR. (b) (6) : From the EPA side, what
6 concerns you with this stuff leaving the property?

7 MS. WENONA WILSON: So I'm going to take that
8 question and then we're going to move to the gentleman in
9 the middle. What is the concern with the material leaving
10 the property?

11 MS. JULIE WROBLE: The concern that I have is
12 some of the uses that we've heard about in the community,
13 material being taken and used in a driveway somewhere.
14 The worst case scenario for me is a kid in a Big wheel
15 riding up and down that driveway every day. To me, that
16 is the worst case scenario. And given the volume of
17 material that's been there over the years and the reports
18 that we've heard about where it's gone, horse arenas,
19 other uses in properties as fill, those are unacceptable
20 practices to me where you have unrestricted exposure,
21 where you don't know where it's been, where you don't know
22 where it's gone. So that kind of is --

23 MR. (b) (6) : Okay. May I?

24 MS. WENONA WILSON: Yes. Just short though.
25 People are backing up.

1 MR. (b) (6) : So is EPA worried then I
2 guess about litigation? Is that your concern, litigation?

3 MS. ELIN MILLER: Human health is what we're
4 worried about.

5 MR. (b) (6) : Human health. Okay.
6 Human health is an issue, but after the human health issue
7 is it litigation? If somebody would get asbestosis maybe,
8 is that EPA's biggest concern, that there would be a
9 lawsuit filed against EPA?

10 MS. JULIE WROBLE: That's not my concern. I'm
11 a healthy person and I'm concerned about somebody getting
12 sick down the road and having that hanging over my head.
13 Looking at other sites, data from other sites, this site
14 is a concern. It is a concern. It's not like I'm looking
15 at this site in a bubble and not looking at the other
16 sites nationally. This is a big deal nationally, this
17 site is.

18 MS. WENONA WILSON: And I think we're going to
19 need to move on.

20 MS. ELIN MILLER: I'll add onto that. One of
21 the first questions I asked, I've been in this job almost
22 a little over a year now, and when this issue came up --
23 in fact, we probed all the way up on this drive about the
24 science question to this. And I know a couple of you have
25 been, "Is this real? Is this not?" Based on looking at

1 everything from a national basis, Julie even had a team of
2 national experts on asbestos out here who have taken a
3 look at our work and basically acknowledged that she's
4 right. To the extent that she's looked, she's right about
5 how she's looked. Gang, this is real. This is real and
6 this is a health concern or we wouldn't be worried about
7 it. The key here is, and I am so -- your comments about
8 we've got to find a solution, you're absolutely right, but
9 what the colonel said, there's authority issues. There's
10 a lot of different things that I know you guys don't want
11 to hear about, but we have mandates from Congress that we
12 can do things and things we can't do without those
13 mandates. So we've got to all collectively work together
14 towards a solution, but I don't want anybody leaving here
15 thinking that this isn't a real public health question and
16 problem.

17 At the same time, we're also interested in
18 taking a look at it even more closely with more experts.
19 And the reason why we do that is because if you come up
20 with this is the level, but the level should have been
21 here or here, you have very different mitigation that
22 needs to take place. So as regulatory agency and
23 especially the EPA, we have to be right on the science and
24 so that's a huge commitment I've got to this group and any
25 group I ever speak to. We will be as right as anybody can

1 be on the science.

2 MS. WENONA WILSON: Thank you. Thank you for
3 waiting your turn.

4 MR. GERRY MILLMAN: Gerry Millman with Great
5 Western Lumber. You've talked about the risks of the
6 asbestos. Has anybody done a risk analysis on when the
7 flood that we all know is going to come on public health
8 or property damage?

9 MS. WENONA WILSON: I think the silence
10 probably means no.

11 MR. GERRY MILLMAN: Has anybody done a risk
12 assessment on what's going to happen and what's going to
13 happen to all these people and all our property, what's
14 the risk?

15 MR. PAUL PITTMAN: I can try and answer a
16 little piece. Paul Pittman with Whatcom County. There's
17 multiple layers of hazard and then therefore risk. One
18 hazard clearly is the landslide itself, asbestos removed
19 from the issue, or whatever. If that landslide were to
20 come down onto the properties here, we have not done a
21 real good risk assessment of that situation. We tried to
22 assess as much as we could with the budget we had of what
23 that landslide itself posed as a hazard. We know it's
24 active, we know it's causing us this issue with bringing
25 the sediment down, but is there something potentially

1 larger of that slide coming down all at once, we don't
2 know the answer to that question.

3 And as far as the damage if it did come down
4 to property values and human life, that would be a
5 component of that, understanding what that potential slide
6 would be. We try looking at, assuming the slide stays up
7 there, if we did no management whatsoever, where might the
8 impacts be. It's hard to assess which way that creek
9 might go out of its banks, so what we did is we just
10 looked at the topography and came up with an area of where
11 potentially it could go using the rule that water goes
12 downhill. There's a lot of downhill directions away from
13 its creek banks and it's a pretty extensive area. It goes
14 all the way over to Breckinridge Creek down there and all
15 the way to Massey Road over there and everywhere between.
16 So course work done, but not detailed study as to what
17 that damage potential might be. Did that answer it?

18 MS. WENONA WILSON: Thank you. Let's ask him.
19 Did that answer it?

20 MR. GERRY MILLMAN: Yes. And one other
21 question. I know there's no attorneys in here and I'm a
22 little skeptical regarding the answer about the legal
23 liability because at the last meeting it seemed like the
24 EPA's attorney was very quick to bring up legal
25 liabilities. Excuse me, but I think the county is very

1 concerned about the legal liabilities. Has anybody looked
2 at the legal liability that's going to be incurred when
3 all of our properties and our businesses are destroyed?

4 MS. WENONA WILSON: Just leave a moment, see
5 if any of the agencies want to address that.

6 MS. LORI COHEN: If I might just, my response
7 on the legal liability was he was asking if the EPA was
8 concerned about its legal liability and all I said was
9 that that was not our concern if this material was used or
10 whatever about our legal liability. I certainly
11 understand there are questions about liability related to
12 this site and I was not trying to down play that at all.

13 MR. GERRY MILLMAN: I understand that. I
14 understand the scientists at EPA are probably just looking
15 at the science, but let's not ignore that there are
16 lawyers at the EPA and there are lawyers at the county and
17 there are lawyers everywhere and every time a solution
18 gets brought up it seems to us as though it sounds
19 reasonable, but maybe there might be a legal liability
20 because if somebody gets asbestosis who are they going to
21 come sue. They're going to sue the county or they're
22 going to sue the EPA or they're going to sue somebody, so
23 let's just let it go and let the people in Everson deal
24 with the liability. Well, there's a legal liability if we
25 don't do anything to all of these people's property and it

1 seems like the legal liability in the end, whenever these
2 issues hit, legal liability is a huge concern. Maybe not
3 to you personally or to you, but to your attorney, I
4 guarantee it is.

5 MS. WENONA WILSON: Thank you.

6 MR. (b) (6) : Why were there three EPA
7 attorneys at the last meeting?

8 MS. WENONA WILSON: We have people waiting to
9 speak. So we're coming back here and then we're coming
10 over here.

11 MR. (b) (6) : My name is (b) (6)
12 and I'm a property here on the (b) (6) Road.
13 Concerning the deposition of this material and causing
14 wetlands, as (b) (6) mentioned, the front of my
15 property -- I live right down the road here where the lake
16 is now -- there's hundreds of thousands of gallons of
17 water in there that can't go any where because the ditch
18 is full. I forget the fella's name in the blue coat, but
19 you and I talked last meeting and you said that you would
20 help me to get that ditch cleaned and that it would be no
21 problem, but I think everybody in this room should know
22 the outcome of that and the outcome was: No. 1, my
23 application, I've never heard a word after several months.
24 And two, they estimated the cost to clean that ditch at at
25 least \$12,000. I have to pay for that. So you guys who

1 are concerned about wetlands and anything that needs to be
2 done, it's going to be on you. Don't expect help from
3 anyone. And of course I don't have \$12,000 to drain my
4 field, so my field is now useless.

5 MR. RICHARD GROUT: Did you wind up talking to
6 my staff member?

7 MR. (b) (6): I talked to many people
8 and eventually -- I started out with -- I forget the
9 agency, I talked to so many, but I kept being passed off
10 and the final pass off was, geez, I recognize this number.
11 who is this? I called the number and it was the people
12 that I started with when I applied.

13 MR. RICHARD GROUT: Let's talk again after the
14 meeting, okay? That's not making sense to me, but let's
15 talk about it.

16 MS. WENONA WILSON: Thank you. Sir, did you
17 still have a comment?

18 MR. (b) (6): I have a couple
19 disjointed things to suggest and I brought it up at the
20 last meeting as well. If we project ourselves forward 10
21 or 15 years and look back, a lot of human capital and
22 money is going to have been spent on this problem and it
23 is not actually dissimilar to the illegal workers coming
24 across the border to the United States to find jobs here.
25 It's a huge problem now, so the analogy is you've got 12

1 to 13 million undocumented workers working hard, most of
2 them paying taxes and into Social Security, that are lined
3 up in that creek right now and sometimes there's more of
4 them and they float out onto the property. If you don't
5 fix the border, the problem doesn't go away. So maybe for
6 an Army Corps engineer individual -- and I've never been to
7 the site. I've seen a few pictures and it's a bigger site
8 I think than I can imagine. I heard 400 acres or
9 something from I think one of the DNR gentleman.

10 But is there not a feasible engineering
11 solution that stops the washing out of the sediments from
12 the lower part of that slide? I think of things like you
13 look at the rice patties in China where you've got whole
14 mountain ranges terraced and water being channeled. And I
15 know it all comes down to money. It's going to cost any
16 way and it's going to cost downstream and we're going to
17 keep paying that max because the problem continues to come
18 down the stream. So that's one thing. Is that entirely
19 unrealistic?

20 Two, are FEMA funds even an option in
21 something like this? And granted, those are usually not
22 preventative measures, but this slide happened, what, 40
23 or 50 years back. It was a naturally occurring -- this is
24 our Katrina, it just happened a long time ago and as the
25 population grew now we realize it's becoming a problem. I

1 don't discount what EPA is saying here, but I also think
2 that for every force there's an opposite counterforce.
3 There's a potential for this, but there's also a potential
4 for it not to be, but we have to take the safe step so we
5 go this way. So the last one is, and I think the woman
6 from Senator Cantwell's office made a comment about, there
7 isn't the precedent or there isn't the legal mechanism
8 that allows one agency to take a presiding role or a
9 leadership role in it. I understand that. It's a new
10 process everybody's going through, but it would seem, and
11 maybe this is all water under the bridge, but it would
12 seem if we had the solutions identified and really
13 understood and agreed on, that maybe then the vehicle can
14 occur that allows an agency to take the lead role. You
15 can't figure out who is going to take charge if somebody's
16 not going to take charge, I don't think. I just think it
17 would happen easier if you kind of knew what your options
18 really were and craft it from that basis.

19 MS. SALLY HINTZ: If I can respond quickly, I
20 didn't express myself clearly and I appreciate what you're
21 saying, absolutely. We're not in a position to take the
22 lead and tell somebody what to do. Sorry, but I think the
23 county is, to a certain extent, in a position to take this
24 forward and to try to direct the process perhaps a little
25 more than you have, and we want to support you. But I was

1 mostly saying we do not have the authority to tell them
2 they have to do this, this and this. And it is a
3 situation that is very, very different, but we need to
4 think outside the box and is this a question of -- I don't
5 know how we can bring FEMA into it. I don't know if
6 anybody has tried. It's worth asking that question. I
7 know we talked to the colonel about --

8 MS. LORI COHEN: About the FEMA question, I
9 can answer that. We have talked with FEMA and we were
10 told that they do not have -- as we've indicated, they do
11 not have the authority to deal with this situation. They
12 do not do the prevention and they don't view this as the
13 event already happened the way you've described it. And
14 so we have checked in with FEMA and have not found that
15 they are responsive to this situation. We will keep
16 trying.

17 MS. ELIN MILLER: We'll keep trying.

18 MS. LORI COHEN: But as far as we have talked
19 with them so far, that's just not looking like a solution.

20 MS. WENONA WILSON: So I heard one other
21 question that you had also on has the Corps explored
22 engineering or do they know if there's engineering
23 options.

24 MR. MIKE MCCORMICK: Is there an engineering
25 solution to the source problem, I would say yes, but not

1 having done -- because we haven't done the study as to how
2 much material exactly is up there, the type, the complete
3 type of material, and then the whole issue of money is a
4 big factor in it. So it's not just finding the
5 engineering solution, but you're going to have to try to
6 do it in a cost effective manner. But until you actually
7 get down and start studying it -- and I know some people
8 have been up to the site, I'm going up there today, but we
9 need the authority to start a study to go in and take a
10 look at the material there.

11 Again, it gets back to the authorities -- play
12 very heavily. But to answer your question, is there an
13 engineering solution, I think so, but it depends on a lot
14 of factors. What the exact solution is right today, I
15 can't tell you, because we'd have to sit down and really
16 study it and try to put some serious brain power into
17 figuring out what to do with it.

18 MS. WENONA WILSON: Thank you. Okay. So we
19 have a comment from this gentleman and from you and then
20 we'll have about probably 10 minutes left and I want to
21 make sure that we have time for anyone who hasn't spoken.
22 Please feel free. All comments are welcome.

23 MR. (b) (6): I need to apologize for being
24 obnoxious. I just get pretty hot-headed with issues like
25 this is. I've been here since '72 and it gets awful

1 frustrating when dealing with this and everybody. But any
2 ways, a question for the Army Corps. You mentioned back at
3 the stream was a potential rehabilitation type thing; is
4 that correct?

5 MR. MIKE MCCORMICK: Ecosystem restoration.

6 MR. (b) (6) Right. Well, I brought it up
7 at other meetings where taking the carriers of the
8 material, like Gold Creek and the other stream next to it,
9 to take and build new streams for those to remove the
10 amount of water coming down at the foot of the slide
11 carrying this material downstream. So you only have one
12 carrier of the material. And I don't know if this has
13 been brought up at any of your meetings or where you go
14 with this idea as far as an engineering standpoint of
15 taking the other streams that flow into the foot of Swift
16 Creek at the bottom of the slide, take those away and put
17 them to Breckinridge Creek or the ones going other
18 directions as part of the long-term solution to this
19 solution up here.

20 MR. MIKE MCCORMICK: Thank you.

21 MS. WENONA WILSON: Was there a specific
22 question or is that an idea?

23 MR. (b) (6) : Just an idea or a question
24 whatever to the possibilities.

25 MR. MIKE MCCORMICK: Thank you. And certainly

1 that would be looked at when we study the solution to the
2 problem, to the source problem.

3 MS. WENONA WILSON: Coming here to the middle.

4 MS. (b) (6): One of my question for you
5 is how do you get a sponsor so we can move forward? who
6 can give you the authority to sponsor you so you can get
7 the answers that you need to get?

8 MR. MIKE MCCORMICK: Colonel McCormick, again.
9 I'm laughing because the stenographer's last name is
10 McCormick and so she knows who I am also because I run
11 around with a name on me. How we get a local sponsor is
12 we get a letter from a local sponsor saying they're
13 willing to contribute a certain percentage depending on
14 the type of study that we're going after or what portion
15 of the process we're in. And it differs, but essentially
16 somewhere around 35, 40 percent is provided by the local
17 sponsor and then the federal government, then we go in and
18 we certainly talk to the congressional delegation and then
19 the congressional delegation funds us for the federal
20 portion, the federal share, and it is across the entire
21 country where this 4.8 billion dollars worth of civil
22 works appropriation money gets chopped up into various
23 programs. And if this thing makes the cut, there is a
24 federal chunk of money put into it.

25 If the member of the Senate or a member of the

1 House has enough pull to actually get the federal money
2 applied, that takes care of the federal portion, but the
3 local portion has to be provided by something that's not
4 federal. So FEMA can't provide a local share, it's got to
5 be the county, it's got to be the state, it's got to be a
6 tribe, it's got to be -- we have a variety of local
7 sponsors when we do a civil works project, which that's
8 kind of in my mind -- that's the closest authority that we
9 have somewhere. And we have a variety of authorities, but
10 that's how. Someone has to write a letter saying we're
11 willing to contribute 30, 40 percent of whatever this
12 study and then later on at the end of the day, at the end
13 of the study if there is an answer to the problem, then it
14 gets authorized. At the end there's a chief's report by
15 the chief of engineers, he signs off on, it gets
16 authorized by congress, and then appropriations get
17 applied for construction.

18 MS. (b) (6): Thanks. And with it being
19 such a health risk, you would think that that would play
20 into it because this is a national health risk is what I'm
21 hearing today. So why are our hands tied and the money
22 tied up? I don't understand that. If it's such a health
23 concern, why isn't there the money for this county not to
24 be this big of a risk? And if you can't answer that, it's
25 like where do we go next? What are we going to do? It is

1 going to flood because we haven't dredged anything out of
2 the creek and it's filled up more, so it is going to flood
3 this year because it was up to the top last year in our
4 driveway and it's never been that high. So it's going to
5 happen, so what do we do? That's why we are frustrated
6 because our hands are tied, too. What do we do? We can't
7 do anything.

8 MS. WENONA WILSON: Thank you. Okay. So we
9 have several people who have raised their hand. We're
10 going to go here and then back to Vernon and the gentleman
11 in the cap and then over here and that might be all the
12 time that we have, so let's go ahead and get started.

13 MS. (b) (6): So is the county the
14 lead agency? Did I understand the county is the lead
15 agency?

16 MR. JON HUTCHINGS: My name is Jon Hutchings.
17 I'm the assistant director of Public Works. And the
18 answer to that is no in terms of the discussion we're
19 having with the other agencies. And keep in mind that the
20 health risk associated with this material has, for lack of
21 a better word, only been exposed for, what, a year or so?
22 In other words, the fact that the county can't continue
23 the historical treatment of simply dredging the creek and
24 keeping the water moving through the creek. So
25 historically that has been the solution and it has worked

1 as far as I know. So all of a sudden a year ago the hand
2 that we're dealt changes and no longer are we capable of
3 continuing to dredge from year to year. So this past
4 summer when the dredging program comes back to the
5 forefront and Paul works hard to get his permits through
6 the process so that we can get equipment back in the
7 creek, we find out that this regulatory knot has been
8 pulled so tight that there's an inability for us to get
9 through all of those hurdles necessary to dredge out the
10 creek.

11 It has taken over the course of the latter
12 part of the summer up until now, actually, to get the
13 level of discussion about this problem to the point where
14 all of the agencies, from what I can hear, are committed
15 to pursuing a higher level solution to the problem.
16 Because clearly dredging the creek year after year is not
17 a solution, it's simply pouring good money after bad, and
18 we end up 20 years down the road in the same situation we
19 are today with probably the same frustrations, the same --
20 different faces, but same agencies at the table.

21 So I think from the county's standpoint the
22 commitment is that, yes, we would like to sit down at the
23 table and put down on paper what that solution might look
24 like and begin to look around for the sources of money
25 that it takes to fix it, to make sure that we've got the

1 authorities. And if it takes congressional help to get
2 those authorities lined up, then we need to do that. So
3 we're not the lead agency, we are one of the many players.
4 This is a problem that has -- it's like a Hydra, the
5 heads are moving. We're front and center and we recognize
6 that.

7 MS. (b) (6): So if you're not the
8 lead agency, is there an agency that's coordinating all
9 the agencies? Is there's an appointed person in one of
10 the agencies that's doing the coordination? We, as
11 citizens, would really like to know who we can talk to,
12 who will know what's going on and not have to go to this
13 person and this person and this person. That would be
14 very helpful.

15 MR. JON HUTCHINGS: And again, up until very
16 recently there's been no need for that because the problem
17 wasn't as it is today. The cards all got thrown on the
18 table, shuffled up, and here's where we are. So the
19 answer to your question is I do not know who will be the
20 lead agency, but I think that that question should be --
21 you should demand a response in the short order as to who
22 are going to be the key players and who is going to lead
23 this up.

24 MS. WENONA WILSON: Okay. So we'll go to Elin
25 and then we have a number of people waiting.

1 MS. ELIN MILLER: What I'd like to suggest is
2 if you are willing to be the coordinator, the county, and
3 I think working with the state bringing all of us
4 together, I think that's better than it's local grown than
5 somebody from a federal agency trying to be a coordinator
6 that might not do as good a job.

7 MR. JON HUTCHINGS: I mean, it's pretty fair
8 to say that we have played that role not formally, I
9 guess, but in getting everybody at the table and making
10 sure that the telephone calls were being had. But I
11 think --

12 MS. ELIN MILLER: Well, I think we should
13 formalize that to the extent we can in this meeting so we
14 can have you being a convener, if you're all right with
15 that, colonel, having the county be a convener for us as
16 we proceed.

17 MR. JON HUTCHINGS: Yeah, I suggest that we
18 sit down and talk about that in some detail.

19 MS. WENONA WILSON: Okay. So we're going to
20 come back to that, work on that. I want to make sure then
21 we come back and we get the people that raised their hands
22 and that they have time to make their statements.

23 MR. (b) (6): Looking around the room,
24 I've been here longer than anybody here. I've walked on
25 this dirt and I've drank water out of the wells and I

1 think I'm the healthiest individual in the room. And
2 there are solutions and I haven't heard anybody ask for
3 solutions. It's all of what has happened and we need
4 solutions and there are several people in here who have
5 ideas and we haven't heard any of them.

6 MS. WENONA WILSON: Thank you. I'm going to
7 come to the gentleman in the cap and then the other
8 gentleman in the cap.

9 MR. (b) (6): I just wanted to make
10 kind of a general statement for those officials that may
11 not have been all together at the same time in the same
12 room. The frustration, and I think you probably got a
13 sense of this, is that we have to be careful for what we
14 asked for and I think we got more than we wanted because
15 I, and I'm speaking for myself but others may have the
16 same sentiment, don't believe your fuzzy science. I'm
17 living proof. I've been here since the '60s. I've played
18 in it, worked in it, hauled it, ate it as a kid, and I
19 have not suffered any ill health. And that's what
20 people -- see, they don't believe you and they don't like
21 to be told what to do. I don't like to be told what to do
22 with gravel on my own property. I need some fill. Now I
23 can't even touch it and I'm too cheap to buy it, so what
24 I've got here is a problem.

25 And so that's just my little world and I know

1 there's a lot of bigger things out there that's more
2 important, but to me that's important. And the solution,
3 the colonel is the first one that ever said, yeah, here's
4 a solution, I believe, an engineering solution. EPA needs
5 to work on numbers like Bill said earlier. If you wanted
6 to, you could make them numbers work. We could dilute it.
7 Dilution is the solution, remember that? They actually
8 used to throw fish guts into the pristine water of an
9 Alaska water treatment plant because the water was too
10 clear and in order to get federal funding they had to
11 pollute it. This is a true story. They threw fish guts
12 in the thing to make it polluted so that they would
13 qualify for funding.

14 But any way, there's a solution. EPA can work
15 on making it work instead of saying we can't do anything.
16 The colonel, he can figure it out. And the county, tell
17 us which way to go, what to do with it. I know there's
18 people here, there's gravel companies that's willing to
19 use that material. Tell us how to haul it, cover it, wet
20 it down, do whatever. We can do something with it. Give
21 us that opportunity to do something with it. That's all I
22 have to say.

23 MS. WENONA WILSON: Thank you.

24 MR. (b) (6): I've just got one
25 question. It's not a matter of if this creek is going to

1 jump its banks, because what the EPA did is not going
2 to -- it's a matter of when it jumps the bank. Who up
3 there is going to take responsibility for it when it does
4 jump the bank, the state, federal, county? Who is going
5 to take responsibility for it?

6 UNIDENTIFIED SPEAKER: We're destroying your
7 land again, right?

8 MR. (b) (6) : (b) (6) land, (b) (6) land,
9 Canadian land over across the street. It's going to wreck
10 everybody's life. Who is going to take responsibility for
11 it? Can somebody tell me that?

12 MS. WENONA WILSON: Anyone want to take a shot
13 at that question?

14 MR. MIKE MCCORMICK: In terms of a flood
15 response, that's the part that I think that I can -- if it
16 overwhelms the county in terms of a flood response, then
17 they ask for assistance and we come up and help do the
18 flood fight. That's not getting to your complete answer.

19 MR. (b) (6) : So you're going to wait
20 until it floods to do anything?

21 UNIDENTIFIED SPEAKER: That's what they've
22 always done.

23 MR. MIKE MCCORMICK: That's the way the flood
24 authority is.

25 MR. (b) (6) : If it's a state of

1 emergency, then the state takes over, correct, or is it
2 you?

3 MR. MIKE MCCORMICK: When they have tapped out
4 themselves and they ask for --

5 MR. (b) (6): They're tapped out any
6 way. It's not their responsibility. It's the state's
7 water. They have all the right to the water. It's the
8 state's material and they're denying it, but I want to
9 know who is going to take responsibility when it's a foot
10 thick on our land. That's what I want to know.

11 MR. MIKE MCCORMICK: If we are called for the
12 flood fight we will work with you on that, on the flood
13 fight, but the impact to the land and everything else, I
14 think that's really what you're getting to, the
15 detrimental impacts to your farmland.

16 MR. (b) (6): Yes.

17 MR. MIKE MCCORMICK: That's what you're
18 talking about?

19 MR. (b) (6): Everybody's, yes.

20 MR. MIKE MCCORMICK: I think that's beyond my
21 authority.

22 MR. (b) (6): Well, whose authority
23 would it be?

24 MS. WENONA WILSON: Is there anybody else in
25 the front who wants to --

1 MR. Mike MCCORMICK: I don't know, sir.

2 MS. WENONA WILSON: -- respond to that
3 question? Okay. That's about as far as we can get on
4 that question. And we are actually at noon so we're going
5 to take one last comment from this gentleman here in the
6 second row.

7 MR. (b) (6): I'd like to go back to the
8 very first question that Tom Westergreen arose. Is this
9 really a threat? EPA sits up there and they say yes, it
10 is a real threat. But yet when they go out and they test,
11 they have not been able to find one individual, not one,
12 that this material has ever harmed. They have said we
13 don't know where this material has been used, we haven't
14 tested homes and such. We have offered for the last year
15 and a half to open up our homes. Come down and sit down
16 with us and find out where this material has been used.
17 We'll share that. And to this date, nothing. We would
18 like some response whether they're going to do it or
19 they're not going to do it, and if they're not going to do
20 it than don't keep telling us we don't have the money for
21 it, we don't know where it's been used. That's not even a
22 part of the solution.

23 In the last two years EPA has spent more money
24 right here between Goodwin Road and Oak Coles on the Swift
25 Creek than we have spent in cleaning this thing for the

1 last seven years. Now they're wanting to run more
2 studies. Material has been studied for the last 40 years.
3 we've been told that you don't know how much is up there,
4 colonel. we've been told there's 67 million cubic yards
5 and the rate that it's coming down right now, it's going
6 to be coming down for the next 4 to 600 years. So are we
7 going to pass this problem onto our children, our
8 grandchildren, for generations to come? That's not a
9 solution either.

10 we need a solution and there are solutions out
11 there. There's been solutions offered by the community in
12 the past. They've been offered here today, that people
13 are willing to come in here and help us get rid of this
14 material in a usable form, and yet it's blocked all the
15 time. Because of the scare tactics that have been put up
16 by EPA on this material, DOT is now saying no, they won't
17 use it. They have in the past, but they won't touch it
18 now. We can't get drainage out of these areas so we have
19 continual flooding.

20 If I remember correctly, the ditching that
21 we're talking about up here at Crofutt's is on DOT land.
22 EPA spent a half a million dollars here in the last two
23 years and we can't get help for Bill for \$12,000 to clean
24 a ditch that is on DOT property? It's not even on his
25 property. It's affecting his property, but it's not on

1 his. EPA says that they're technical, they're not
2 regulatory, but they stand up here and they say we're a
3 regulatory agency. They have put regulations on what can
4 be done.

5 It's only because of those scare tactics that
6 this material has not disappeared and that's a lot of what
7 the property owner's believe, is this is scare tactics, and
8 that's what's affecting our lives in a detrimental fashion.
9 we need some solutions, some real solutions. And some of
10 the legislative authority gaps that the colonel was talking
11 about, that's what we need legislative help in getting a
12 solution for, filling those gaps so that somebody -- I
13 don't care whether it's EPA, the Army Corps or who -- will
14 take the authority and the responsibility. They want the
15 authority, but will they take the responsibility? So far
16 all I'm hearing up here is no, we won't take the
17 responsibility for the landowners, but we will help after
18 the fact. We need help now, not after it's flooded.

19 When it floods and it goes through and covers
20 the roads and such, then we can get help. That may take
21 care of the county's responsibility on the roads, but it's
22 not going to help any of the property owners. We need
23 those real solutions and we need them now. We're going to
24 have a flood this winter that's going to affect everyone
25 of these property owners and maybe more.

1 MS. WENONA WILSON: Thank you. Actually,
2 we're past time. I think your comments provide an
3 excellent summary of concerns from property owners in the
4 community and I thank you. I thank everyone for coming
5 here today. I know this group is committed to following
6 up amongst itself and it was really important that they
7 hear from you. And maybe it has been done, and I guess it
8 has been done in the past, but I think it's fresh now and
9 they can take it, they can make decisions based on what
10 they've heard from you.

11 So I really want to thank you for coming out.
12 I want to ask you again, if you do want to receive any
13 future correspondence, it would really help us if you can
14 sign the sign-in sheet. It will also probably help our
15 transcriber if she has any questions on the spelling of
16 your name. We will stick around for a few minutes if
17 people want to come up. I know there's some questions
18 about the removal action -- I'm sorry, the time critical
19 action that EPA took here, and Jeff is here in the back,
20 and I know that we had some follow-up with the state and
21 the gentleman who is trying to get that ditch work done.
22 So let's all mill about for a little bit until we have to
23 go.

24 (Whereupon, the Swift Creek meeting was
25 concluded at 12:07 p.m.)

1 CERTIFICATE

2 .

3 I, Sheralyn R. McCormick, do hereby certify
4 that pursuant to the Rules of Civil Procedure, the
5 witness named herein appeared before me at the time
6 and place set forth in the caption herein; that at
7 the said time and place, I reported in stenotype all
8 testimony adduced and other oral proceedings had in
9 the foregoing matter; and that the foregoing transcript
10 pages constitute a full, true and correct record of such
11 testimony adduced and oral proceeding had and of the
12 whole thereof.

13 .

14 IN WITNESS HEREOF, I have hereunto set my
15 hand this 12th day of December, 2007.

16

17 _____

18 Signature

Expiration Date

19

20

21

22

23

24

25